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8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2012-30

13 **WENDY JOANNE ZINN**  
14 **24303 Walnut Street, #F**  
15 **Newhall, CA 91321**

**DEFAULT DECISION AND ORDER**

16 **ZINN & ASSOCIATES**  
17 **24303 Walnut Street, #F**  
18 **Newhall, CA 91321**  
19 **Certified Public Accountant Certificate No.**  
20 **64931**

[Gov. Code, §11520]

**Fictitious Name Permit No. 1102**

Respondent.

21 **FINDINGS OF FACT**

22 1. On or about August 2, 2012, Complainant Patti Bowers, in her official capacity as the  
23 Executive Officer of the California Board of Accountancy, Department of Consumer Affairs,  
24 filed Accusation No. AC-2012-30 against Wendy Joanne Zinn (Respondent) before the California  
25 Board of Accountancy. (Accusation attached as **Exhibit A.**)

26 2. On or about August 6, 1993, the California Board of Accountancy (CBA) issued  
27 Certified Public Accountant Certificate No. 64931 to Respondent. The Certified Public  
28

1 Accountant Certificate expired on March 1, 2010, and has not been renewed. Pursuant to  
2 Business and Professions Code section 5109, the expiration, cancellation, forfeiture, or  
3 suspension of a certificate shall not deprive the Board of jurisdiction to proceed with disciplinary  
4 proceedings against the licensee.

5 3. On or about March 16, 2001, the California Board of Accountancy issued Fictitious  
6 Name Permit No. 1102 to Respondent.

7 4. On or about August 10, 2012, Respondent was served by Certified and First Class  
8 Mail copies of the Accusation No. AC-2012-30, Statement to Respondent, Notice of Defense,  
9 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
10 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
11 Regulations, title 16, section 3, is required to be reported and maintained with the CBA.

12 Respondent's address of record was and is:

13 24303 Walnut Street, #F

14 Newhall, CA 91321

15 5. Service of the Accusation was effective as a matter of law under the provisions of  
16 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
17 124.

18 6. On or about August 21, 2012, the aforementioned documents were returned by the  
19 U.S. Postal Service marked "Not Deliverable As Addressed – Unable to Forward." The address  
20 on the documents was the same as the address of record on file with the CBA. Respondent failed  
21 to maintain an updated address with the CBA and the CBA has made attempts to serve the  
22 Respondent at the address on file. Respondent has not made herself available for service and  
23 therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

24 7. Government Code section 11506 states, in pertinent part:

25 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
26 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
27 of the accusation not expressly admitted. Failure to file a notice of defense shall  
28 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

8. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. AC-2012-30.

9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the CBA finds Respondent is in default. The CBA will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the CBA's offices regarding the allegations contained in Accusation No. AC-2012-30, finds that the charges and allegations in Accusation No. AC-2012-30, are separately and severally, found to be true and correct by clear and convincing evidence.

11. Taking official notice of its own internal records, pursuant to Business and Professions Code section 5107, it is hereby determined that the total reasonable costs for Investigation and Enforcement is \$3,947.73 (AG costs - \$1,832.50 plus Board costs - \$2,115.23) as of October 2, 2012.

### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Wendy Joanne Zinn has subjected her Certified Public Accountant Certificate No. 64931 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The California Board of Accountancy is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

1 a. Business and Professions Code sections 5100, subdivisions (c) and (g) and 5037,  
2 subdivision (b)(1) & (2), and California Code of Regulations, title 16, sections 52, subdivisions  
3 (a)-(d) and 68, for unprofessional conduct in: (1) negligently failing to complete and file tax  
4 documents in a timely manner for two of her clients; (2) failing to make a timely response to  
5 inquiries from two of her clients about the filed and unfiled documents; (3) failing to return books  
6 and accounting records, after demand by her clients, to her clients; and (4) failing to respond to  
7 the Board's inquiries about the complaints filed by three of Respondent's clients.

8 ORDER

9 IT IS SO ORDERED that Certified Public Accountant Certificate No. 64931, heretofore  
10 issued to Respondent Wendy Joanne Zinn, is revoked.

11 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
12 written motion requesting that the Decision be vacated and stating the grounds relied on within  
13 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
14 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

15 This Decision shall become effective on December 26, 2012.

16 It is so ORDERED November 26, 2012

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18 \_\_\_\_\_  
19 FOR THE CALIFORNIA BOARD OF  
20 ACCOUNTANCY  
21 DEPARTMENT OF CONSUMER AFFAIRS

22 51170821.DOCX  
23 DOJ Matter ID: LA2012506341

24 Attachment: Exhibit A: Accusation  
25  
26  
27  
28

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
Deputy Attorney General  
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5 Los Angeles, CA 90013  
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6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2012-30

11 **WENDY JOANNE ZINN**  
12 **24303 Walnut Street, #F**  
13 **Newhall, CA 91321**

**A C C U S A T I O N**

14 **Certified Public Accountant Certificate No.**  
**64931**

15 **ZINN & ASSOCIATES**  
16 **24303 Walnut Street, #F**  
**Newhall, CA 91321**

17 **Fictitious Name Permit No. 1102**

18 Respondents.  
19

20 Complainant alleges:

21 **PARTIES**

22 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
23 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

24 **LICENSE HISTORY**

25 2. On or about August 6, 1993, the California Board of Accountancy, Department of  
26 Consumer Affairs (CBA) issued Certified Public Accountant Certificate Number 64931 to Wendy  
27 Joanne Zinn (Respondent). The Certificate was "suspended" for the period from October 20,  
28

1 2006 through January 18, 2007, pursuant to discipline imposed pursuant to Decision No. AC  
2 2005-24. The Certified Public Accountant Certificate Number 64931 expired on March 1, 2010,  
3 has not been renewed, and is currently in a "delinquent" status. On or about March 16, 2001, the  
4 CBA issued to Respondent Fictitious Name Permit No. 1102 for Zinn & Associates, which allows  
5 a sole practitioner to practice under a name other than the name set forth on her CPA certificate,  
6 provided the CPA certificate is in good standing.

### 7 JURISDICTION

8 3. This Accusation is brought before the CBA, under the authority of the following  
9 laws. All section references are to the Business and Professions Code unless otherwise indicated.

10 4. Section 5037, subdivision (b) states:

11 . . . . .

12 "(b) A licensee shall furnish to his or her client or former client, upon request and  
13 reasonable notice:

14 (1) A copy of the licensee's working papers, to the extent that those working papers  
15 include records that would ordinarily constitute part of the client's records and are not otherwise  
16 available to the client.

17 (2) Any accounting or other records belonging to, or obtained from or on behalf of, the  
18 client which the licensee removed from the client's premises or received for the client's account.  
19 The licensee may make and retain copies of documents of the client when they form the basis for  
20 work done by him or her."

21 5. Section 5100 states:

22 "After notice and hearing the board may revoke, suspend or refuse to renew any permit or  
23 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing  
24 with Section 5080), or may censure the holder of that permit or certificate for unprofessional  
25 conduct which includes, but is not limited to, one or any combination of the following causes:

26 . . . . .

27 "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same  
28 or different engagements, for the same or different clients, or any combination of engagements or

1 clients, each resulting in a violation of applicable professional standards that indicate a lack of  
2 competency in the practice of public accountancy or in the performance of the bookkeeping  
3 operations described in Section 5052.

4 . . . . .

5 "(g) Willful violation of this chapter or any rule or regulation promulgated by the board  
6 under the authority granted under this chapter."

7 6. Section 5107(a) of the Code states:

8 "(a) The executive officer of the board may request the administrative law judge, as part of  
9 the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate  
10 found to have committed a violation or violations of this chapter to pay to the board all reasonable  
11 costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.  
12 The board shall not recover costs incurred at the administrative hearing."

13 7. Section 5109 states:

14 "The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or  
15 other authority to practice public accountancy by operation of law or by order or decision of the  
16 board or a court of law, the placement of a license on a retired status, or the voluntary surrender  
17 of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with  
18 any investigation of or action or disciplinary proceeding against the licensee, or to render a  
19 decision suspending or revoking the license."

20 **REGULATORY PROVISIONS**

21 8. California Code of Regulations, title 16, section 52, states, in pertinent part:

22 "(a) A licensee shall respond to any inquiry by the Board or its appointed representatives  
23 within 30 days. The response shall include making available all files, working papers and other  
24 documents requested.

25 (b) A licensee shall respond to any subpoena issued by the Board or its executive officer  
26 or the assistant executive officer in the absence of the executive officer within 30 days and in  
27 accordance with the provisions of the Accountancy Act and other applicable laws and regulations.

28 //



1 (c) A licensee shall appear in person upon written notice or subpoena issued by the Board  
2 or its executive officer or the assistant executive officer in the absence of the executive officer.

3 (d) A licensee shall provide true and accurate information and responses to questions,  
4 subpoenas, interrogatories or other requests for information or documents and not take any action  
5 to obstruct any Board inquiry, investigation, hearing or proceeding.”

6 9. California Code of Regulations, title 16, section 68, states, in pertinent part:

7 “A licensee, after demand by or on behalf of a client, for books, records or other data,  
8 whether in written or machine sensible form, that are the client’s records shall not retain such  
9 records. Unpaid fees do not constitute justification for retention of client records . . .”

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Repeated Acts of Negligence)**

12 10. Respondent is subject to disciplinary action under Business and Professions Code  
13 section 5100, subsection (c) for unprofessional conduct due to her repeated negligent acts in  
14 failing to complete and file tax documents in a timely manner for two of her clients, and by  
15 failing to make timely response to inquiries from two of her clients about the filed and unfilled  
16 documents, as follows:

17 **Clients J.F. and B.F.**

18 A. Respondent committed repeated acts of negligence during her engagement for Clients  
19 J.F. and B.F. (husband and wife), to represent them in an Internal Revenue Service (IRS) audit of  
20 their 2006 tax return, which tax return Respondent had prepared. Clients J.F. and B.F. provided  
21 Respondent with supporting tax documentation upon her request and, following Respondent’s  
22 meeting with the IRS, J.F. and B.F. provided the additional documentation requested by  
23 Respondent. Clients J.F. and B.F. are informed and believe and on that basis allege that  
24 Respondent failed to present any of the documentation to the IRS which they had provided to her.  
25 Clients J.F. and B.F. requested via phone calls, messages and written demands that Respondent  
26 return their records, but she failed to respond to their requests or return their records, so that they  
27 could adequately address the IRS issues.

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1           **Client B. S. and His Company, Building Survey & Architecture, Inc. (BSA)**

2           B.     Respondent committed repeated acts of negligence during her engagement for Client  
3     B.S. and his company, BSA, as follows:

4                 1.     Respondent failed to provide B.S. with the information about adjustments  
5     needed to reconcile the information in the 2008 corporate income tax returns. Respondent  
6     prepared the 2008 corporation tax return for BSA from BSA's trial balance and income statement  
7     that Client B.S. had provided to Respondent. B.S. attempted to obtain information from  
8     Respondent; in particular, the adjustments needed to reconcile BSA's information to the amounts  
9     in the tax returns. However, Respondent did not respond and/or comply with Client B.S.'s and/or  
10    her representatives' requests for the return of B.S.'s client records.

11                2.     There are unaccounted for differences between the income statement and  
12    BSA's tax return activity, as follows:

13                   a.     The income statement reflected total income of \$137,794.73 as compared  
14    to the tax return that reported gross receipts or sales of \$97,203, a difference of \$40,591.73.

15                   b.     An increase of \$487 deducted on the tax return for licenses and permits as  
16    compared to the income statement.

17                   c.     A reduction of \$3,000 deducted on the tax return for office rent as  
18    compared to the income statement.

19                   d.     A reduction of \$1,162 deducted on the tax return for repairs and  
20    maintenance, as compared to the income statement.

21                3.     BSA's payroll tax notice for 2007 reflected a difference in payroll taxes, that  
22    Client B.S. sent to Respondent for her review. Although Respondent advised Client B.S. she  
23    would handle the matter, she never addressed this issue.

24                           **SECOND CAUSE FOR DISCIPLINE**

25                           **(Failure to Return Client Records)**

26                11.     Respondent is subject to disciplinary action as defined in Section 5037, subdivision  
27    (b)(1) & (2) and California Code of Regulations, title 16, section 68, for failing to return books  
28    and accounting records, after demand by her clients, to her clients. The facts and circumstances

1 are set forth in Paragraph 10 which is incorporated by reference in full here.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Failure to Respond to Board Inquiry)**

4 12. Respondent is subject to disciplinary action under Section 5100, subdivision (g) and  
5 California Code of Regulations, title 16, section 52, subdivisions (a), (b), (c) and (d), for failing to  
6 respond to the Board's inquiries about the complaints filed by three of her clients, two of which  
7 are as described in Paragraph 10, inclusive, which is incorporated by reference in full here. More  
8 specifically, the Board sent letters to Respondent at her address of record on or about October 5,  
9 2009, December 22, 2009, March 23, 2010 and March 25, 2010, and left telephone messages with  
10 her, which she failed to respond to. On or about July 14, 2010, the Board issued a subpoena to  
11 Respondent to obtain her written response and other documentation. Although Respondent  
12 contacted the Board by telephone and provided a post office box address and a facsimile number,  
13 Respondent did not respond to the Board's inquiries regarding the complaints by her three clients,  
14 nor the subpoena which the Board issued.

15 **DISCIPLINARY CONSIDERATIONS**

16 13. To determine the degree of discipline, if any, to be imposed on Respondent,  
17 Complainant alleges as follows:

18 **Previous Discipline**

19 A. Effective October 20, 2006, in a prior disciplinary action, Respondent's  
20 Certificate was revoked pursuant to the Board's decision in the *Accusation Against Wendy Joanne*  
21 *Zinn*, Case No. AC-2005-24; however, the revocation was stayed, and Respondent was placed on  
22 probation for two years with terms and conditions, including a 90-day suspension. The probation  
23 was completed on or about October 19, 2008. A copy of the Board's decision is attached hereto  
24 as **Exhibit "A"**.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

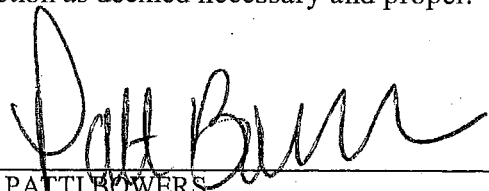
1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 64931, issued to Wendy Joanne Zinn;

2. Revoking or suspending or otherwise imposing discipline upon Fictitious Name Permit Number 1102, issued to Wendy Joanne Zinn and Zinn & Associates;

3. Ordering Wendy Joanne Zinn to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and

4. Taking such other and further action as deemed necessary and proper.

DATED: August 2, 2012

  
PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
*Complainant*

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